



MANAGING GENERAL AGENTS' ASSOCIATION

FSCS: The Scope and Delivery of Policyholder Protection – and the Role of the Industry

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FSCS – The Scope and Delivery of Policyholder Protection – and the Role of the Industry

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- Current issues
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- Policyholder Data

The FSCS (1)

- The Financial Services Compensation Scheme (“FSCS”) is the UK’s statutory fund of last resort for customers of authorised financial services firms
- Established under Part 15 of FSMA 2000
- FSCS is a set of rules made by the PRA and FCA
- Administered by FSCS Ltd – the Scheme Manager
- We are accountable to, but operationally independent of, the regulators, and to HM Treasury
- Under section 213(3)(a), the scheme is required to pay claims made in connection with “*regulated activities carried on by* [authorised persons]”

The FSCS (2)

FSCS's role is to protect consumers who have incurred financial losses when firms regulated by the FCA and/or PRA (and their predecessors) are unable, or likely to be unable, to pay claims against them.

FSCS comprises six different sub-schemes, namely:

- Deposits
- Life and general insurance policies
- General insurance mediation
- Investment business
- Advice and arranging of mortgage business
- Debt management

FSCS Ltd

- The Scheme Manager
- Chairman and Board
 - Independent appointments
- Audited by National Audit Office
- Statutory Immunity
- Judicial Review

The Rules

COMP sourcebook in FCA Handbook

- General insurance mediation
- Investment business
- Advice and arranging of mortgage business
- Debt management



PRA Rulebook

- Life and general insurance (Policyholder Protection rules)
- Deposits (Depositor Protection rules)



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Policyholder Protection Rules

PRA Policyholder Protection Rules

<http://www.prarulebook.co.uk/rulebook/Content/Part/213382>

Policyholder Protection - x

www.prarulebook.co.uk/rulebook/Content/Part/213382

BBC News OpenText Cascade My Flex FUSE COMP DP rules SS18.15 PH rules PLC Dep SoP fd FD NW JL HL Equifax FSMA

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BANK OF ENGLAND PRUDENTIAL REGULATION AUTHORITY

View Rulebook as at: 17/01/2018 Go

You are viewing the Rulebook in the present on 17/01/2018

Policyholder Protection ↗ Future version 01/04/2018

Application provision

1.1 This Part applies to the *FSCS*, and for the purposes of **chapter 21, 22.6 - 22.8** and **Annex 2**, this Part also applies to *participant firms* and the *Society*.

1 Application and Definitions

1.1 03/07/2015 This Part applies to the *FSCS*, and for the purposes of **chapter 21, 22.6 - 22.8** and **Annex 2**, this Part also applies to *participant firms* and the *Society*.

1.2 01/01/2016 In this Part, the following definitions shall apply:

↗ Future version 01/04/2018 **article 9 default** has the meaning given in article 2(2) of the *compensation transitionals order*.

authorised insurance company means (in accordance with the *compensation transitionals order*) a *person* who was, at any time before 1 December 2001, authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on insurance business of any class in the *UK*.

base costs means *management expenses* which are not attributable to any *insurance class*.

base costs levy

Legal Instruments

Legal instruments that have changed this Part

Related links

Legislation.gov.uk [↗](#)

Eur-Lex [↗](#)

PRA Handbook, Interim Prudential sourcebook for friendly societies (IPRU - FSOC) [↗](#)

PRA Handbook, Fees Manual (FEES) [↗](#)

PRA Handbook, Supervision (SUP) [↗](#)

CP21/14 Policyholder Protection [↗](#)

CP20/14 Depositor Protection [↗](#)

Glossary

PRA Rulebook

SII Firms

Policyholder Protection

- 1 Application and Definitions
- 2 FSCS
- 3 Qualifying Conditions for Paying Compensation
- 4 Securing Continuity of Long-Term Insurance Cover
- 5 Relevant Persons in Financial Difficulties
- 6 Limits when Securing Continuity and Taking Measures in Relation to Relevant Persons in Financial Difficulties
- 7 Eligible Claimants
- 8 Exceptions
- 9 Protected Claims
- 10 Relevant Persons in Default
- 11 Successors in Default
- 12 Assignment (Automatic, Electronic and in Writing)

FSCS Coverage

- There is no upper limit on the amount of protection
- Long-term insurance benefits are protected 100% (for claims against firms declared in default from 3 July 2015)
- Claims under compulsory insurance, professional indemnity insurance and certain claims for injury, sickness or infirmity of the policyholder are protected at 100%
- Protects 90% of other types of claim
- Coverage for natural persons and small businesses – and all businesses for certain claims (compulsory insurances)

Policyholder Protection

- In default – unable or likely to be unable to pay claims
- Compensation
 - Indemnity claims
 - “claims falling due”
 - Return of Premium
- Continuity and Taking Measures
 - Transfer policies/substitute policies
 - Financial assistance
- Costs test

What we do...

- Eligibility
 - Look at whether a policyholder or claimant is eligible for FSCS protection.
 - Consider position of insolvent policyholders and assess their suitability for 'TPR Validation'. This allows a potential claimant access to the insurance taken out by their employer despite their employer no longer being in existence.
- Estate Management
 - Daily liaison with the larger Estates on technical and procedural issues.
 - Attend Creditor Committee Meetings.
 - Build strong working relationships between FSCS, Insolvency Practitioners and Run-off Agents.
 - Ensure that FSCS protection is delivered promptly where there is a valid claim.
- Audit
 - Carry out regular technical audits of Run-off Agents.
 - Take part in audit of panel solicitors alongside relevant Insolvency Practitioner and Run-off Agent.
 - Conduct focussed Risk and Controls reviews at Run-off Agents.
- Payment
 - Scrutinise and authorise all FSCS payments made on insolvent insurance estates.

Estate Failure Activities

- Liaise with UK Regulators (runs throughout) or Home State Regulators
- Gather Critical MI and profile the firm
- Assess levy impact
- Assess need for 'special measures'
 - Policy transfer/continuity
 - Financial Assistance for 'carrying out'
- Assess claims handling capabilities with IP
- Determine the IP process for dealing with creditors / claims going forwards
- Return of Premium Process
- Agree Claims Handling Process with IP/Run Off Agent
- Agree Payment process with IP/ROA
- Communications messages for policyholders, brokers, levypayers

Return of Premium (“RoP”)

- RoP may be available if policy automatically terminates, is disclaimed, or cancelled/terminated in accordance with policy terms
- RoP is calculated by the insurer and in accordance with information used by the firm to calculate the premium
- RoP is generally based upon the value of the unexpired portion of the policy; RoP compensation is paid at 90%
- FSCS is able to make assumptions on eligibility and to waive the use of Application Forms for eligibility (but must do so on a strict risk and benefits basis)
- If the policyholder funded the premium using premium finance we may be required to pay the premium finance company any return of premium
- FSCS may pay claims individually or as part of a volume payment process

Using RoP to fund replacement cover

- Insurer or broker leads activity to identify New Carrier
- Will insurer agree that there is no value in the book (i.e. they may want to sell on the renewal rights)?
- Due diligence on New Carrier the sole responsibility of the broker
- Broker needs to ensure replacement policy on same terms as original and is suitable for policyholder (i.e. unexpired length of cover, same cover, mirrored future cancellation rights, cooling off period)
- If premium finance involved they need to agree to new cover and continuation of the loan and have new policy as their security
- Who will cancel the policies (if not automatic)?
- Cancellation and new cover dovetail and leave no gap
- What are the timescales for paying RoP? (May depend on Broker's credit terms with New Carrier)
- Use of multi party agreements – FSCS, Insurer, Broker and Premium Finance (and New Carrier?)
- How will policyholders be told of what is happening to their policy?
- Is there an opt out before or after the transfer?
- Who is funding the 10% shortfall and what are the mechanics for this?

Estate Closure

- Will claims handling continue beyond Bar Date ?
- Collate Financial Information for Bar Date claim
 - Agree Bar Date Claim
 - Obtain access to critical estate information
 - Arrange for IP to load Employers Liability Records to ELTO database
 - Agree process for any on-going claims handling
 - Dovetail with end of IP process
 - Assignment of reinsurance
 - Liaise with Official Receiver
 - Recoveries
 - Dividends

Role of Industry

- regular FSCS/levy payer engagement
- introduction of New Carriers
- communication of FSCS activities
- awareness of FSCS disclosure
 - Policyholder disclosure
 - FSCS “Badge”

What has happened so far...

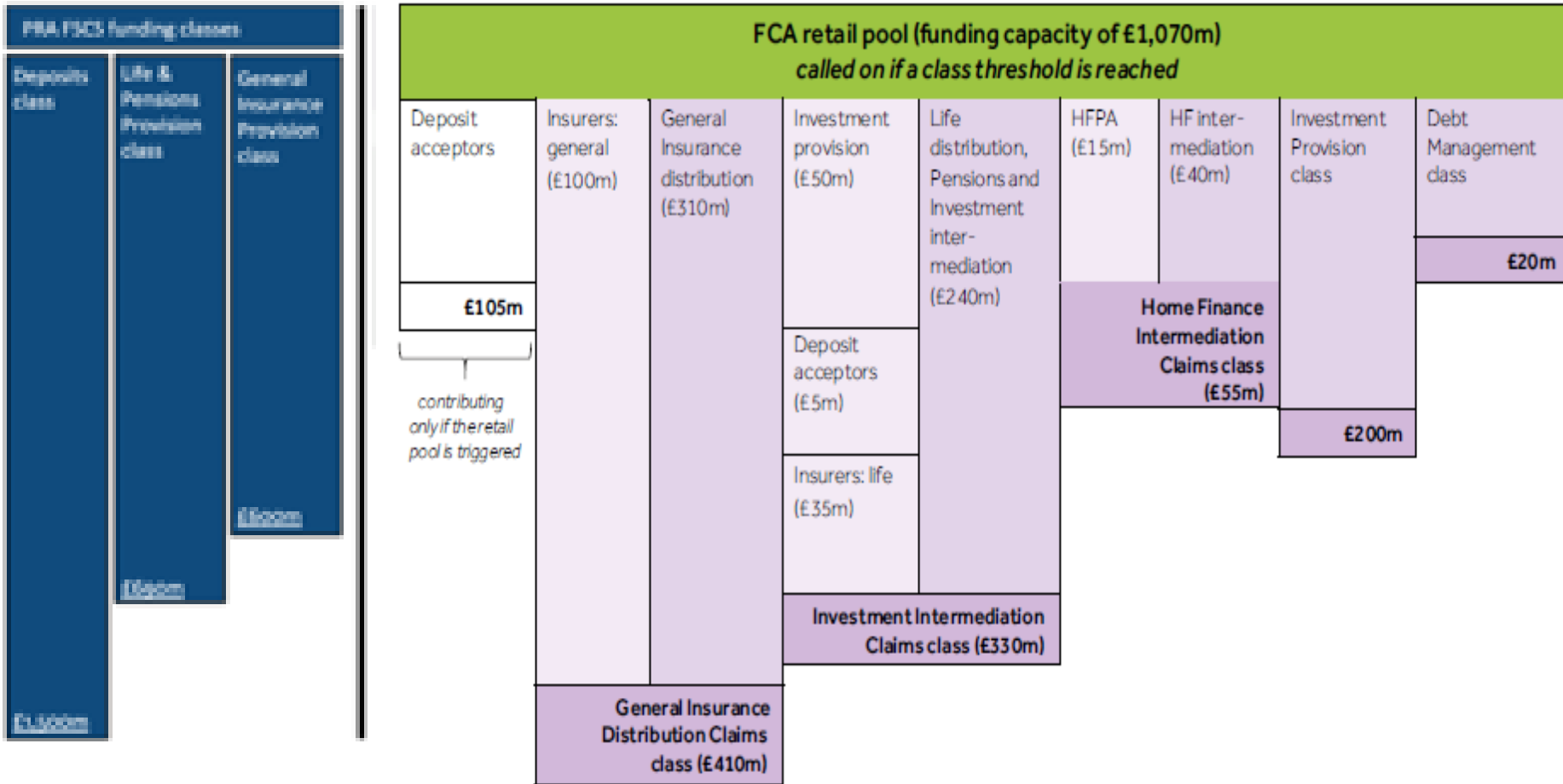
- » Failures relate to General Insurance
- » Largest failures to date have been Builders Accident Insurance, Chester Street Insurance Holdings, Drake , KWELM and Independent – pre FSCS
- » In total, to date, the PPB/FSCS has spent **over £1.5bn** on the various insurance failures we have been involved in.
- » Seeing increasing number of cross-border insurance failures – EU firms passporting to insurance UK risks
- » Below are examples of the costs, so far, of just some of the insurance failures FSCS is dealing with:

Name of company	Amount paid as at November 2019
Chester Street	£677 m
Builders Accident	£190 m
Independent Insurance	£446 m
Enterprise (cross-border Gibraltar)	£165 m
Gable (cross-border Liechtenstein)	£57 m
Alpha (cross-border Denmark)	£54 m (£8m recovered from DIGS)

Funding

- Funded by industry
- Annual 'pay as you go' levy
- No pre fund
- Recoveries
 - Subrogation/assignment of rights
 - Estate dividends – schemes of arrangement

New Class Structure (April 2019)



Policyholder Data

- Passporting insurers with the MGA model have poor quality data
- Inhibits policy continuity or replacement option
- FSCS Guidelines
 - Data Team
 - FSCS Portal
 - Name convention
 - Bank account details
- FSCS Template (Appendix)
 - Individuals
 - Partnerships
 - Companies
 - Turnover information

Ongoing Issues for FSCS?

- Increasing number and rise in costs of Asbestos related claims (i.e. mesothelioma and lung cancer)
- Risk of 'unrated ' insurance companies (including passport into UK)
- Cross-border failure with passported business in the UK – liaison with other European Insurance Guarantee Schemes
- No harmonisation across the EU on insurance coverage – limit or scope
- Resolution – currently no UK resolution regime in place for insurers
- Brexit

Appendix

N	M	L	U
Column	Field	Definition	Data format
A	Broker Name	The insurer facing broker. Often called the wholesale broker, MGN broker	Max 58 characters
B	Sub Broker Name	The actual facing broker	Max 58 characters
C	Insurer Policy No	Full policy number that is held by the insurer	Max 288 characters
D	Optional Alternative Policy No	If the broker holds an alternative policy number, optional here	Max 288 characters
E	Policyholder Title	Mr, Mrs, Ms etc. Used in the cheque for individual payments	Max 28 characters
F	Policyholder First Name	Full given name - no initials. Used in the cheque for individual payments	Max 35 characters
G	Policyholder Middle Name	If known	Max 35 characters
H	Policyholder Surname	Full family name - no initials. Used in the cheque for individual payments	Max 35 characters
I	Company Name	Company legal entity. Policyholder name fields are not mandatory	Max 35 characters
J	Trading As	Trading name. If given, policyholder name required	Max 58 characters
K	Annual Turnover	Annual turnover for the 12 months immediately preceding inception or renewal date (whichever is later)	Number
L	Policyholder address 1	Address Line 1 of the policy of premium receiptal. Company if LTD company	Max 58 characters
M	Policyholder address 2	Address Line 2 of the policy of premium receiptal.	Max 58 characters
N	Policyholder address 3	Address Line 3 of the policy of premium receiptal.	Max 58 characters
O	Policyholder town	Town/City of the policy of premium receiptal.	Max 38 characters
P	Policyholder county	County of the policy of premium receiptal.	Max 38 characters
Q	Policyholder country	Country of the policy of premium receiptal.	Max 38 characters
R	Policyholder postcode	Postal Code of the policy of premium receiptal.	Max 38 characters
S	Policyholder DOP	DOP of the policy of premium receiptal. In the format DD/MM/YYYY	Date
T	Vehicle registration number(s)	Of the car under the policy	Max 28 characters
U	Inception date	Date of inception or renewal, whichever is most recent DD/MM/YYYY	Date
V	Inception premium	Premium of inception or renewal in GBP?	Number
W	Midterm adjustment premium	Summation total of all adjustments made in the policy since the inception/renewal date in GBP?	Number
X	Date of midterm adjustment	Date of the most recent midterm adjustment.	Date
Y	Cancellation date	Date policy is cancelled or discontinued	Date
Z	Expiry date	Date policy would have expired in the absence of insurer default	Date
AA	Return of Premium Der	Gross value of unearned premium left on the policy at cancellation [in GBP] - as calculated by broker	Panther figure
AB	Type of policy [in plain English]	Legman's description i.e. Car insurance, gap insurance, household, combined etc	Max 58 characters
AC	Eligible [Y/N]	Is the policyholder entitled to premium refund under the T&Cs	Yes/No only
AD	Not Eligible Reason	Brief explanation of above	Max 188 characters
AE	Premium paid to insurer [Y/N]	Has the insurance premium be paid to the insurer by the broker?	Yes/No only
AF	Transfer of Cover [Y/N]	Is the policy part of a block transfer agreed by PSCS and IF [Y] or paying the policyholder directly [N]	Yes/No only
AG	Premium paid by credit facility	Is premium paid by credit facility?	Yes/No only
AH	Name of premium credit provider	Dependant on above. Name of company who provided the credit	Max 58 characters
AI	Credit reference number	Reference number for the credit agreement	Max 28 characters
AJ	Policyholder 2 title	Populate if there are multiple policyholders	Max 35 characters
AK	Policyholder 2 First Name	Populate if there are multiple policyholders	Max 35 characters
AL	Policyholder 2 Middle Name	Populate if there are multiple policyholders	Max 35 characters
AM	Policyholder 2 Surname	Populate if there are multiple policyholders	Max 35 characters
AN	Policyholder 2 DOP	DOP of the policy of premium receiptal. In the format DD/MM/YYYY	Date
AO	Policyholder 3 title	Populate if there are multiple policyholders	Max 35 characters
AP	Policyholder 3 First Name	Populate if there are multiple policyholders	Max 35 characters
AQ	Policyholder 3 Middle Name	Populate if there are multiple policyholders	Max 35 characters
AR	Policyholder 3 Surname	Populate if there are multiple policyholders	Max 35 characters
AS	Policyholder 3 DOP	DOP of the policy of premium receiptal. In the format DD/MM/YYYY	Date
AT	Policyholder 4 title	Populate if there are multiple policyholders	Max 35 characters
AU	Policyholder 4 First Name	Populate if there are multiple policyholders	Max 35 characters
AV	Policyholder 4 Middle Name	Populate if there are multiple policyholders	Max 35 characters
AW	Policyholder 4 Surname	Populate if there are multiple policyholders	Max 35 characters
AX	Policyholder 4 DOP	DOP of the policy of premium receiptal. In the format DD/MM/YYYY	Date

Thank you